



Mike Kadas
Director


Montana Department of Revenue



Steve Bullock
Governor

Memorandum

To: Revenue and Transportation Interim Committee

From: Director Mike Kadas 

Date: October 1, 2013

Subject: Discussion of Same Sex Marriage

The IRS recently issued a revenue ruling that recognized same sex marriages for federal tax purposes. This basically means that same sex couples with a valid marriage can file a joint federal tax return.

The Department has had few cases where a taxpayer's marriage status was at issue. Therefore we do not believe any compliance initiatives associated with verifying the marital validity of any type of marriage, opposite sex or same sex, is necessary. If the Department did undertake a compliance initiative to verify marriages the initiative would apply to all types of marriages; opposite sex, same sex, and common law. A compliance initiative would require the Department to ask taxpayers to provide the Department with information that supports that they have a valid marriage. Unfortunately, the Department has no other means to verify taxpayers' marital status other than directly asking taxpayers, which some taxpayers may find to be very intrusive and believe that type of information is something that the Department does not need to know. We are also confident that if we did undertake a marriage compliance initiative the cost of such an initiative would far outweigh any financial benefit received from enforcing Montana's tax laws.

Because the State Constitution defines a marriage as one that is between one man and one woman, the Montana Department of Revenue cannot follow this federal guidance.

Like any law, the Department of Revenue expects taxpayers to honor all of Montana's tax laws. When asked if a same sex couple can file a joint state tax return, we will advise that this is not a valid filing option in Montana. If the person asking the question believes that the Department's position on this issue is incorrect they have the option of taking the necessary legal steps to challenge the position.

If the Department does identify a tax return that has been filed with an invalid marital status we will contact the payer to address the issue.